

ARGUMENTS

Rejection of Claims on Art Grounds in the 05/18/2005 Office Action, and Traversal Thereof

In the 05/18/2005 Office Action, claims 1-31 were rejected on prior art grounds, under 35 U.S.C. 102.

Claims 1-20, and 22-31 were rejected under 35 U.S.C. 102(b) as being anticipated by Browne (U.S. 5,598,849).

Claims 1-19, and 24-31 were rejected under 35 U.S.C. 102(e) as being anticipated by Mault (U.S. 6,478,736A).

Claims 1-22, 25-29, and 31 were rejected under 35 U.S.C. 102(e) as being anticipated by Holland (U.S. 6,607,483).

Applicant asserts that the prior art references cited by the examiner do not anticipate nor do they make obvious the claims of the current invention. The above rejections of the claims 1-31 on the stated art grounds are traversed, and consideration of the patentability of the claims 1-31 is requested, in light of the following remarks.

Applicant argues that the Browne reference US Patent No. 5598849 and Holland US Patent No. 6607483 provide a large, desktop computer that requires communication with a network and other computers (Figures 1-5); also, the computer in either case is not anticipated as a compact, hand-held device as in the amended claims – in fact both patents teach away from the present invention in teaching that the computers use a computer system database and traditional desktop computer, using references to keyboard “Tab key” and mouse for selecting options shown on a separate screen. Neither reference has anticipated a compact, hand-held device as with the present invention that is used on

the floor or remote exercise location by a user not requiring connectivity to a "system database" for multiple users and/or fitness clients – in the case of Holland requiring forms to be completed for adding "new members".

Applicant argues that Mault US Patent No. 6478736 provides a hand-held device that is only functional if connected directly to equipment or diagnostics, which is not required according to the present invention, as set forth in the amended claims, the device of the present invention does not require direct connection to diagnostic equipment – Mault requires the PDA to directly connect to the calorimeter to obtain the data (Fig. 5 & related description).

By contrast to the prior art, the present invention provides an assessment and evaluation used in a functional workout program to determine a customized program suitable for the target fitness user. The present invention provides optional inputs from exercise and diagnostic equipment via wireless connection, in particular, heart rate and blood pressure, which are monitored for health reasons and to register a particular workout to determine fitness progress.

The present invention provides an initial assessment and evaluation provides input that is required to compile a customized cardiovascular and resistance based workout program. Each time a workout is conducted, then the user enters inputs associated with that workout; the software of the present invention makes changes and adjusts the program during each use to ensure that the workout is optimal, based on initial inputs and user goals combined with the new workout inputs. Thus the present invention provides dynamic tracking and updating of the user's optimal fitness program.

CONCLUSION

In view of the foregoing, claims 1-31, constituting the claims pending in the application, are submitted to be fully patentable and in allowable condition to address and overcome the rejections.

If any issues remain outstanding, incident to the allowance of the application, Examiner Astorino is respectfully requested to contact the applicant to discuss the resolution of such issues, in order that prosecution of the application may be concluded favorably to the applicant, consistent with the applicant's making of a substantial advance in the art and particularly pointing out and distinctly claiming the subject matter that the applicant regards as the invention.

This Office Action Response is submitted to the USPTO on 09/19/2005 via the Official USPTO Fax number 703-872-9306; a single extension of time is requested with fees paid by credit card form.

Respectfully submitted,



James C. Glasgow

Applicant